

122 FERC ¶ 61,069  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Tampa Electric Company

Docket Nos. OA07-47-000  
OA07-47-001

ORDER ACCEPTING COMPLIANCE FILING, AS MODIFIED

(Issued January 31, 2008)

1. On July 13, 2007, as amended on November 19, 2007, pursuant to section 206 of the Federal Power Act (FPA), Tampa Electric Company (Tampa Electric) submitted its compliance filing as required by Order No. 890 (Filing).<sup>1</sup> In this order, we will accept Tampa Electric's Filing, as modified, as in compliance with Order No. 890, as discussed below.

**I. Background**

2. In Order No. 890, the Commission reformed the *pro forma* Open Access Transmission Tariff (OATT) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability, open and coordinated planning of transmission systems and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights and reassignments of transmission capacity.

3. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Transmission providers that have not been approved as independent system operators (ISO) or regional transmission organizations (RTO), and whose transmission facilities are not under the control of an ISO or RTO, were directed to submit, within 120 days from publication of Order No. 890 in the *Federal Register* (i.e., July 13, 2007), section 206 compliance filings that conform the non-rate terms and

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<sup>1</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007).

conditions of their OATTs to those of the *pro forma* OATT, as reformed in Order No. 890.<sup>2</sup>

## **II. Compliance Filing**

4. Tampa Electric states that it is filing its entire OATT,<sup>3</sup> including those provisions required by Order No. 890.<sup>4</sup> Tampa Electric explains that consistent with Order No. 890, it has: (1) developed a mechanism for crediting imbalance revenues in excess of incremental costs to non-offending customers; (2) developed provisions concerning the clustering of studies; and (3) included a new Attachment L specifying its creditworthiness procedures. Additionally, Tampa Electric explains that it removed references in its OATT relating to the replacement of the former Schedule 4A (Generation to Schedule Imbalance Service) with the new Schedule 9 (Generator Imbalance Service).

5. On November 19, 2007, Tampa Electric amended its filing correcting errors on its OATT sheets.<sup>5</sup> Tampa Electric states that the corrections submitted are non-substantive and merely conform the newly designated OATT to previously accepted provisions.

6. Tampa Electric requests that its revised OATT be made effective on July 13, 2007, with the exception of Schedules 4 (Energy Imbalance Service) and 9 (Generator Imbalance Service), and the tariff sheets containing revisions to the language of Schedules 5 (Operating Reserve – Spinning Reserve Service) and 6 (Operating Reserve – Supplemental Reserve Service),<sup>6</sup> which it requests become effective on the first day of the billing cycle following the date of its filing, which is August 1, 2007.

## **III. Notice of Filing and Responsive Pleading**

7. Notice of Tampa Electric's July 13, 2007 filing was published in the *Federal Register*, 72 Fed. Reg. 41,727 (2007), with interventions and protests due on or before August 3, 2007. On August 3, 2007, Reedy Creek Improvement District (Reedy Creek) filed a motion to intervene and comments.

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<sup>2</sup> The original 60-day compliance deadline provided for in Order No. 890 was extended by the Commission in a subsequent order. *See Preventing Undue Discrimination and Preference in Transmission Service*, 119 FERC ¶ 61,037 (2007).

<sup>3</sup> Tampa Electric, FERC Electric Tariff, Third Revised Vol. No. 4.

<sup>4</sup> In a separate filing, Tampa Electric submitted certain provisions of its OATT that vary from the non-rate terms and conditions of the *pro forma* OATT as modified in Order No. 890. *See Tampa Electric Co.*, Docket Nos. OA07-3-000 and OA07-3-001.

<sup>5</sup> *Id.* Substitute Original Sheet Nos. 5, 51, 66, 70, 73 and 75.

<sup>6</sup> *Id.* Original Sheet Nos. 71, 72, 74, 76, 81, 82 and 83.

8. Reedy Creek does not protest Tampa Electric's Filing, but notes that Tampa Electric filed a placeholder for the Attachment K planning process required by Order No. 890. Reedy Creek states that it understands that the Commission extended the filing date for Attachment K proposals to December 2007. It states that it has concerns with the current strawman draft of the planning process that has been proposed by the Florida utilities, including Tampa Electric. Reedy Creek explains that it will continue to work within the stakeholder process to resolve those concerns. It adds that it reserves the right to protest the Attachment K filing to be submitted by Tampa Electric.

9. Notice of Tampa Electric's amended filing was published in the *Federal Register*, 72 Fed. Reg. 67, 928 (2007), with interventions and protests due on or before December 10, 2007. None was filed.

#### **IV. Discussion**

##### **A. Procedural Matters**

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>7</sup> the timely, unopposed motion to intervene by Reedy Creek serves to make it a party to this proceeding.

##### **B. Tampa Electric's Filing**

11. As discussed below, we will accept Tampa Electric's Filing, as modified, to be effective July 13, 2007 with the exception of Schedules 4 and 9, which it requests become effective on the first day of the billing cycle following the date of its filing.<sup>8</sup> We also direct Tampa Electric to file within 30 days of the date of this order, a further compliance filing as discussed below.

##### **Unreserved Use Penalties**

12. In Order No. 890, the Commission determined that transmission customers would be subject to unreserved use penalties in any circumstance where the transmission customer uses transmission service that it has not reserved and the transmission provider has a Commission-approved unreserved use penalty rate explicitly stated in its OATT.<sup>9</sup>

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<sup>7</sup> 18 C.F.R. § 385.214 (2007).

<sup>8</sup> We accept Schedules 4 and 9 to be effective on the first day of the billing cycle following the date of this filing, which is August 1, 2007. The Commission concluded in its *Order Granting Extension of Compliance Action Dates* that extending this effective date is reasonable. 119 FERC ¶ 61,037, at P 22 (2007).

<sup>9</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 834, 848.

We note that Tampa Electric's OATT does not contain an unreserved use penalty rate and, as a result, Tampa Electric may not charge transmission customers for unreserved use penalties. However, if Tampa Electric plans to charge unreserved use penalties, it must file a penalty rate in a section 205 filing based on the firm point-to-point rate and provide that penalties will be charged based on the specific period of unreserved use.

### **Rollover Rights Effective Date**

13. In Order No. 890, the Commission adopted a five-year minimum contract term in order for a customer to be eligible for a rollover right and adopted a one-year notice period. The Commission determined that this rollover reform should be made effective at the time of acceptance by the Commission of a transmission provider's coordinated and regional planning process. The Commission explained that rollover reform and transmission planning are closely related, because transmission service eligible for a rollover right must be set aside for rollover customers and included in transmission planning.<sup>10</sup>

14. Tampa Electric has included the rollover reforms in section 2.2 of its revised tariff sheets, with a requested effective date of July 13, 2007. However, Tampa Electric's Attachment K, setting forth its transmission planning process, has not yet been accepted.<sup>11</sup> This is contrary to Order No. 890's requirement that rollover reforms are not to become effective until after a transmission provider's Attachment K is accepted. Therefore, we direct Tampa Electric to file, within 30 days of the date of this order, a revised tariff sheet that reflects the previous language of section 2.2. Tampa Electric should re-file the rollover reform language established in Order No. 890 within 30 days after acceptance of its Attachment K, requesting an effective date commensurate with the date of that filing.

### **The Commission orders:**

(A) Tampa Electric's Filing is hereby accepted, as modified, effective July 13, 2007 and August 1, 2007, as discussed in the body of this order.

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<sup>10</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1231, 1265.

<sup>11</sup> The Commission extended the deadline for submitting Attachment K to December 7, 2007. *See Order Extending Compliance Action Date and Establishing Technical Conferences*, 120 FERC ¶ 61,103 (2007). Reedy Creek will have the opportunity to raise any of its concerns when Tampa Electric files its Attachment K.

(B) Tampa Electric is hereby directed to submit a compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.